



~~August 2, 2006 BZA~~
September 6, 2006 BZA

REQUEST ANALYSIS
AND
RECOMMENDATION

06AN0331
(AMENDED)

Derrick W. and Lavette E. Jackson

Clover Hill Magisterial District
1100 Twilight Lane

- REQUESTS:
- I. A 114.9 foot Variance to the 150 foot front yard setback requirement for a dwelling and an addition (not to encroach any closer than the existing dwelling in the front yard).
 - II. A 32.7 foot Variance to the forty (40) foot side yard setback requirement for an existing dwelling.
 - III. A 20.3 foot Variance to the fifty (50) foot rear yard setback requirement for a dwelling and an addition (not to encroach any closer than the existing dwelling in the rear yard).

RECOMMENDATION

Subject to the note below, recommend approval of Variances I, II and III for the following reasons:

- A. The single family dwelling (constructed in 1978) has not nor will it impair the character of this residential area.
- B. The strict application of the Zoning Ordinance would result in an unreasonable hardship to the property owner if the dwelling or part of the dwelling were required to be moved or removed.

- C. The encroachments of the single family dwelling to the front, side and rear yard setback requirements do not unreasonably impair an adequate supply of air and light to the adjacent properties. Also, if the addition does not encroach any closer than the existing dwelling in the front and rear yard, it will not unreasonably impair an adequate supply of air and light to the adjacent properties.

(Note: The proposed addition would need to meet the requirements of Cochran v. Fairfax County Board of Zoning Appeals (Va. Supreme Court 2004)).

GENERAL INFORMATION

Location:

Property is known as 1100 Twilight Lane. Tax ID 758-700-1422 (Sheet 7).

Existing Zoning:

A

Size:

0.77 acre

Existing Land Use:

Residential

Adjacent Zoning and Land Use:

North - A; Residential
South - A; Residential
East - R-9 and R-12; Residential and vacant
West - A; Residential and vacant

Utilities:

Public water and private septic system

General Plan:

(Northern Area Land Use and Transportation Plan)

Residential
(1.51 to 4.0 units per acre)

DISCUSSION

The applicants have indicated the dwelling and addition will be located 40.1 feet from the front property line. The Zoning Ordinance requires a 150 foot front yard setback requirement in an Agricultural (A) District. Therefore, the applicants would need a 109.9 foot Variance. However, the ultimate right of way has increased from forty (40) to fifty (50) feet, therefore five (5) more feet needs to be added to the request making the Variance 114.9 feet (see attached plat). Also, the applicants have indicated the existing dwelling is 7.3 feet from the side property line. The Zoning Ordinance requires a forty (40) foot side yard setback requirement in an Agricultural (A) District. Therefore, the applicants request a 32.7 foot Variance (see attached plat). Further, the applicants have indicated the dwelling and addition will be located 29.7 foot from the rear property line. The Zoning Ordinance requires a fifty (50) foot rear yard setback requirement in an Agricultural (A) District. Therefore, the applicants request a 20.3 foot Variance (see attached plat).

The applicants provide the following justification in support of these requests:

This request has been submitted for the purpose of adding an addition to the existing home, which will include two rooms and a bathroom. The addition will be constructed on the right side (south side or left side facing house) of the house. Length wise, the existing property will be able to accommodate the addition without being a deterrent to the neighbor's property. The occupants of the addition will be senior citizens. Due to their age and health, there will be no effect on public school, traffic or the future area development. If granted these Variances, they will allow us to build an addition that is needed on our existing property. My husband and I have decided to take on the responsibility of taking care of my elderly parents instead of putting them in an adult home at the expense of the State. My father has been diagnosed with prostate cancer and my mother has suffered two (2) strokes. Having them in the home with us will make it easier for us to care for them properly. If granted these Variances, we feel it will help prolong the life of our parents as well as mine, due to my own health issues.

The subject property is located off the west line of Twilight Lane and consists of 0.77 acre and is zoned Agricultural (A). The original dwelling was constructed in 1978. In 1997, the previous property owner added 0.19 acre to the original property, thereby creating a new recordation date. The new recordation date changes the setback requirements from the 1978 requirements to the present day requirements. If the proposed addition had been constructed between 1978 and 1997, it would have met the Zoning Ordinance and no Variances would have been needed. On August 11, 2000, the applicants purchased the property. The applicants have indicated they would like to construct an addition to the existing dwelling. However, before they can apply for a building permit on the subject property the existing dwelling must be brought into compliance with the present Zoning Ordinance requirements.

Variances I, II and III (for the existing dwelling)

Staff has reviewed these requests and cannot identify any alternative short of removing the dwelling or part of the dwelling in the front, side and rear yards. Staff feels that removing or altering the

dwelling to meet the required setbacks would impose an unnecessary hardship on the property owner.

Also, because it appears that this property was acquired in good faith and that the applicants did not create this hardship, staff believes that granting these Variances would alleviate an undue hardship on the property owners.

There has been no adverse impact by the dwelling being located at its present location on the subject property for twenty-eight (28) years. Further, it is staff's determination that because of the location of the dwelling on the subject property and the distance from the adjacent properties, the encroachments would not unreasonably impair the adequate supply of light and air to the adjacent property owners. Therefore, staff would recommend that these requests be approved subject to the aforementioned conditions.

Variances I, II, and III (for the proposed addition)

The proposed addition will not encroach any closer than the existing dwelling, which has been in its present location on the subject property for twenty-eight (28) years. The dwelling has not unreasonably impaired an adequate supply of light and air to the adjacent property owners nor will the addition. Also, the addition will not adversely affect the health, safety or welfare of persons residing on the premises or adjacent to the subject property. The County Attorney advises that any proposed addition would also need to satisfy the requirements of the Cochrane decision in that, absent the variance, there would be no reasonable beneficial use of the subject property.

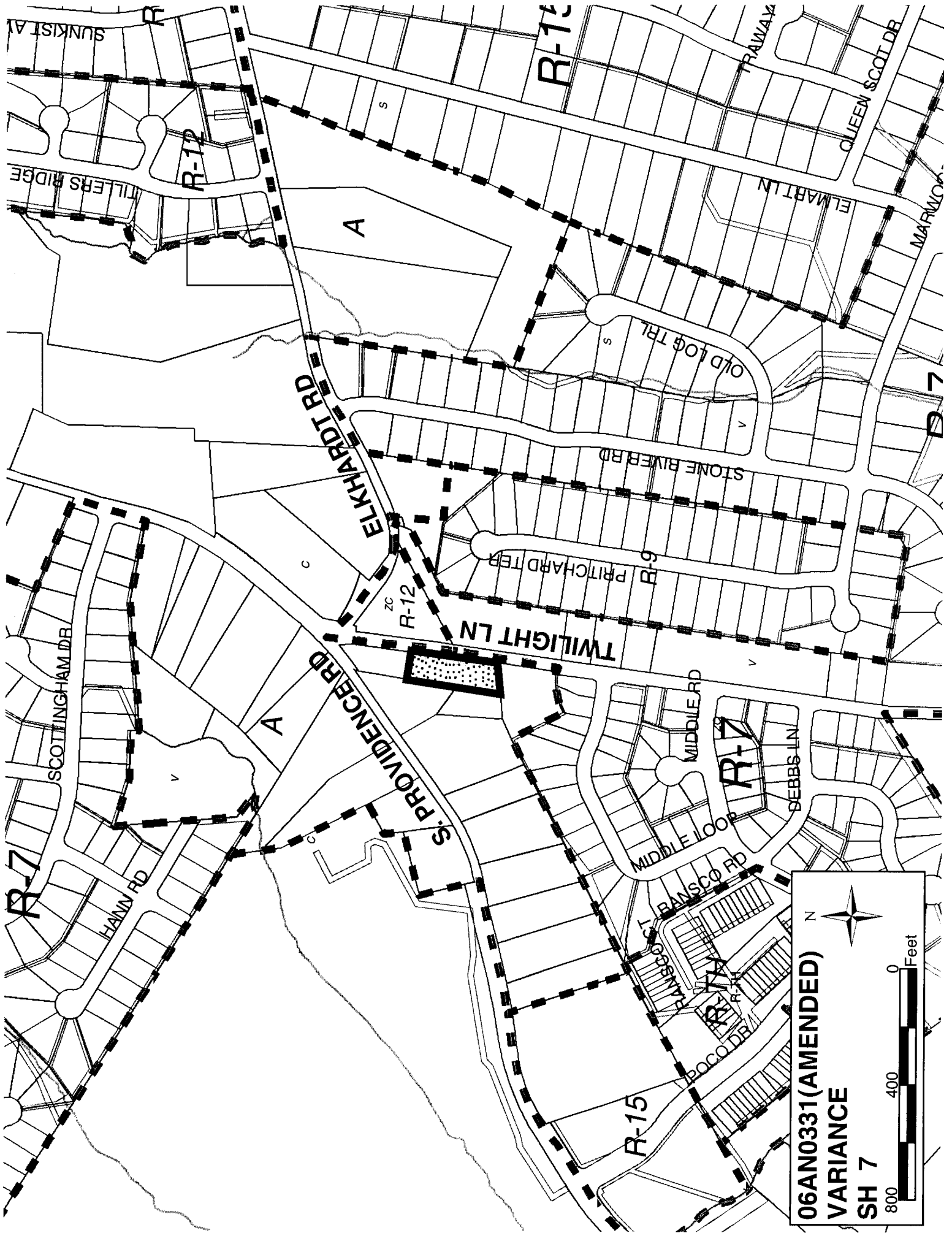
CASE HISTORY

08/02/06:

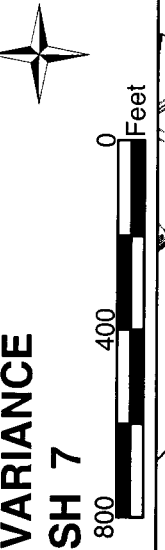
The Board deferred this request to their September 6, 2006, meeting to allow the applicants and staff an opportunity to discuss other alternatives relative to these Variance requests.

08/02/06:

The applicants amended the application for the proposed addition. The applicants have indicated the addition will not encroach any closer than the existing dwelling in the front and rear yards.

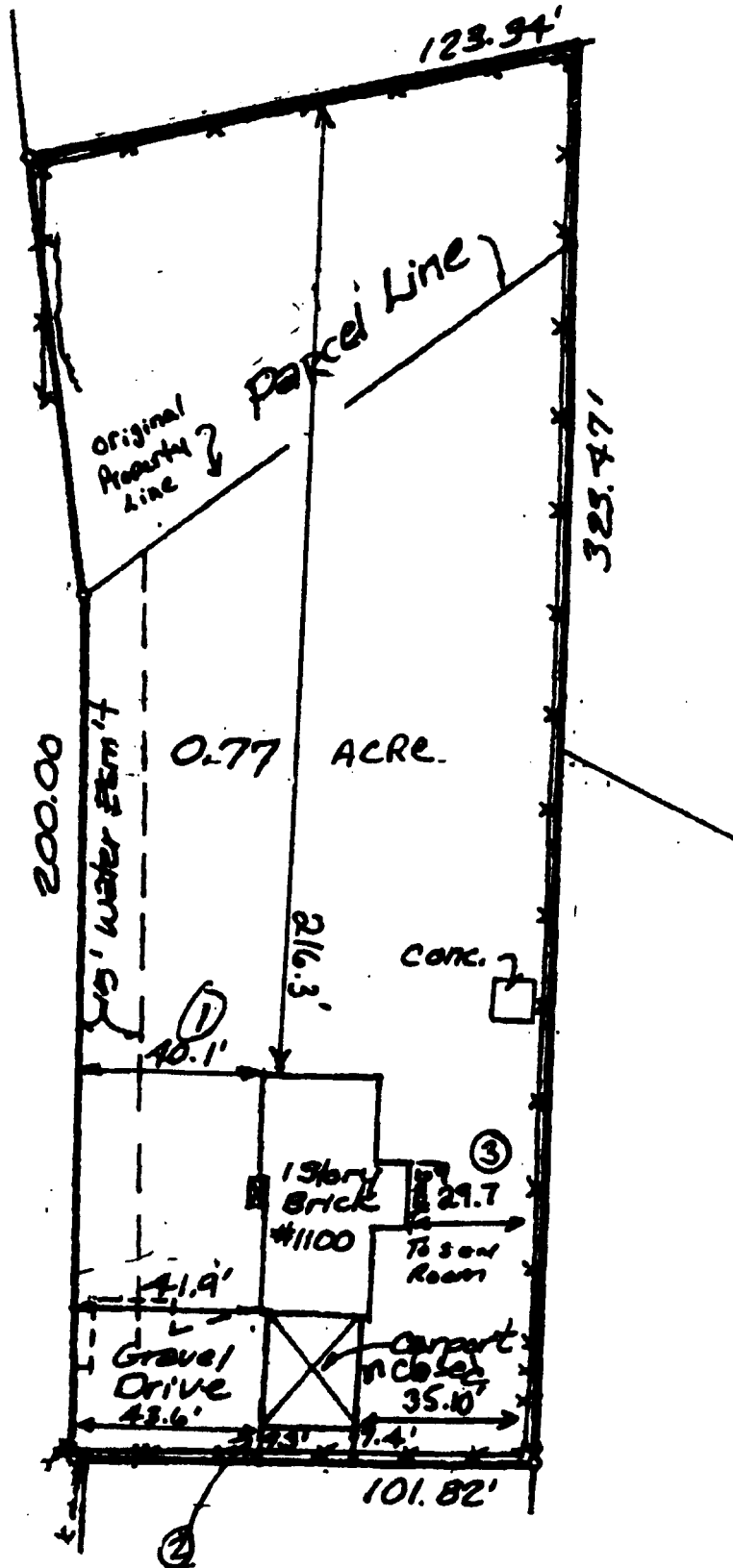


06AN0331(AMENDED)
VARIANCE
SH 7



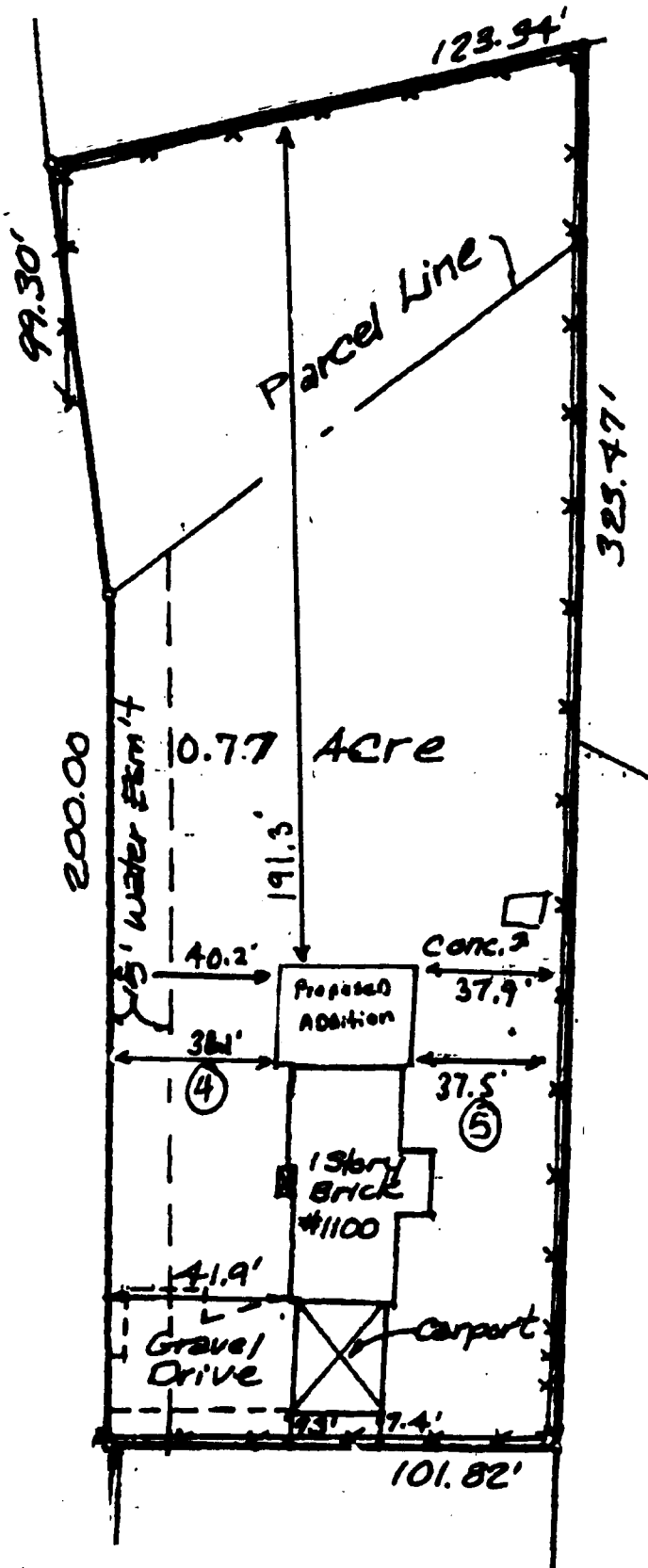


TWILIGHT LANE





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